



Serving the Iowa Legislature

IOWA LEGISLATIVE INTERIM CALENDAR AND BRIEFING

December 18, 2012

2012 Interim No. 8

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- Administrative Rules Review Committee (12/11/12)
- Property Assessment Appeal Board Review Committee (12/11/12)
- Legislative Tax Expenditure Committee (12/12/12)

December 2012

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Thursday, December 20, 2012

Legislative Fiscal Committee

10:00 a.m., Room 116, Statehouse

Friday, December 21, 2012

Electronic Commerce Study Committee

10:00 a.m., Room 103, Supreme Court Chamber, Statehouse

Tuesday, January 8, 2012

Administrative Rules Review Committee

10:00 a.m. Room 116, Statehouse

Wednesday, January 9, 2013—TENTATIVE

Administrative Rules Review Committee

9:00 a.m., Room 116, Statehouse

Friday, January 11, 2013

Mental Health and Disability Services Redesign Fiscal Viability Study Committee

10:00 a.m., Room 103, Supreme Court Chamber, Statehouse

Monday, January 14, 2013

Eighty-fifth General Assembly, 2013 Regular Session Convenes

10:00 a.m., Senate and House of Representatives Chambers

January 2013

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Iowa Legislative Interim Calendar and Briefing is published by the Legal Services Division of the Legislative Services Agency (LSA). For additional information, contact: LSA at (515) 281-3566.

AGENDAS

INFORMATION REGARDING SCHEDULED MEETINGS

Legislative Fiscal Committee

Co-Chairperson: Senator Robert Dvorsky

Co-Chairperson: Representative Scott Raecker

Location: Room 116, Statehouse

Date & Time: Thursday, December 20, 2012, 10:00 a.m.

Contact Persons: Dave Reynolds, Fiscal Services, (515) 281-6934; Deb Kozel, Fiscal Services, (515) 281-6767.

Tentative Agenda: Receive presentations from the State Board of Regents on a Special Schools Feasibility Study, from the State Library on rare documents, from the Department of Administrative Services on information technology consolidation, bidding procurement process, and the Mercy Capitol Hospital state facility, and from the Department of Human Services on their Transition Fund report relating to adult mental health and disability services. Receive reports from the Legislative Services Agency, Fiscal Services Division concerning the Revenue Estimating Conference December projections, FY 2011-2012 yearend report, condition of Iowa's General Fund budget, Medicaid expenditure projections, and federal Budget Control Act of 2011 and federal sequestration. Discussion of state health insurance issues.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=46>

Electronic Commerce Study Committee

Co-Chairperson: Senator Matt McCoy

Co-Chairperson: Representative Chuck Soderberg

Location: Room 103, Supreme Court Chamber, Statehouse

Date & Time: Friday, December 21, 2012, 10:00 a.m.

Contact Persons: Rick Nelson, Legal Services, (515) 242-5822; Ann Ver Heul, Legal Services, (515) 281-3837; Mike Mertens, Legal Services, (515) 281-3444.

Agenda: The meeting will focus on presenting an overview of federal and state perspectives regarding state taxation of internet sales transactions and banking interchange fees, and obtaining input on these issues from various state departments, agencies, and retail industry representatives.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=850>

Administrative Rules Review Committee

Chairperson: Senator Wally Horn

Vice Chairperson: Representative Dawn Pettengill

Location: Room 116, Statehouse

Dates & Times: Tuesday, January 8, 2013, 10:00 a.m., and Wednesday, January 9, 2013, 9:00 a.m. (TENTATIVE)

Contact Persons: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

Agenda: Published in the Iowa Administrative Bulletin:

<http://www.legis.state.ia.us/asp/BulletinSupplement/bulletinListing.aspx>

Mental Health and Disability Services Redesign Fiscal Viability Study Committee

Co-Chairperson: Senator Joe Bolkcom

Co-Chairperson: Representative Renee Schulte

Location: Room 103, Supreme Court Chamber, Statehouse

Date & Time: Friday, January 11, 2013, 10:00 a.m.

Contact Persons: John Pollak, Legal Services, (515) 281-3818; Patty Funaro, Legal Services, (515) 281-3040; Amber DeSmet, Legal Services, (515) 281-3745.

Agenda: To be announced.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=849>

ADMINISTRATIVE RULES REVIEW COMMITTEE

December 11, 2012

Chairperson: Senator Wally Horn

Vice Chairperson: Representative Dawn Pettengill

DEPARTMENT OF ADMINISTRATIVE SERVICES, *Confidential Employees, 11/14/12 IAB, ARC 0460C, ADOPTED.*

Background. Iowa Code §8A.412 provides that a confidential employee is exempt from the merit employment system; it is one of 24 legislatively created exceptions to the application of the merit system. In 2011, the department proposed to expand the rules definition of the term “confidential employee” to include state employees who work in personnel offices. That proposal was dropped and in the fall of 2012 the department adopted an alternative proposal which defines a confidential employee as an employee who is in a confidential relationship with a director, a chief deputy administrative officer, a division administrator, or a similar position, and is a part of the management or legal team of that top-level administrator.

Commentary. Department representatives stated that confidential status would be determined on an agency-by-agency basis, in consultation with agency heads. Affected personnel would not include labor contract covered positions. The representatives noted that in the case of the Department of Administrative Services, about 3 percent of the positions would be affected.

Opponents contended that any expansion of the statutory term should be done through the legislative process, not rulemaking. Opponents also questioned the need for the rule, since no problems with the current administration were presented. Opponents also protested that the application of the rule was vague and lacked standards.

Committee members were split in their deliberations. Some members were concerned over the potential impact the rule might have on the merit system. Other members felt that the concerns were overstated and that the rule would be limited in its application. A motion to refer the rulemaking to the General Assembly for further review was adopted.

Action. General referral to the General Assembly.

DEPARTMENT OF EDUCATION, *Preprofessional Skills Test for Admission to Teacher Preparation Programs; Subject Assessments for Teacher Candidates, 11/28/12 IAB, ARC 0476C, ADOPTED.*

Background. This rulemaking implements 2012 Iowa Acts, Ch. 1119 §39, (SF 2284), relating to pretesting of candidates for admission to teacher preparation programs. Whereas, presently teacher preparation programs are required to administer a “basic skills test” to admission candidates, the new legislation requires that the test be “a preprofessional skills test offered by a nationally recognized testing service.” The new legislation also imposes a new requirement that, prior to completion of the program, each student in a teacher preparation program achieve scores above the 25th percentile nationally on an assessment that measures pedagogy and knowledge of at least one subject area. The department has designated the Praxis II tests to meet this requirement. The rulemaking is effective January 2, 2013.

At the committee’s September meeting, committee members expressed concern that the January 2 effective date for the rule will unfairly impact students who will be undergoing testing soon, but after that date, and who have not had adequate time or training to prepare for the new standard. The department director replied that the immediate effective date of the underlying legislation required him not to delay its implementation. Public comment has been received echoing the concerns raised at the September meeting.

Commentary. A representative of the department summarized the rulemaking, and the department director discussed some additional matters. The director explained that another testing option which would satisfy the requirements of SF 2284, the edTPA test, would be available in fall 2013, and the department would implement that option by rule at that time. The director reviewed the department’s process for this rulemaking, noting that the department had sought substantial stakeholder input over the last five months and made changes in response to concerns that had been raised. In response to concerns that the rulemaking would unfairly impact students who will be testing soon, the director stated that because the underlying legislation had an immediate effective date, the department should have implemented the new standards in July, but had waited in order to accommodate students testing in the fall and to receive further feedback. He noted that other parts of SF 2284 had later effective dates, while these testing requirements did not. Public comment was received from a member of the state Board of Education and the former Massachusetts education commissioner, who expressed support for the rulemaking, and from the former director of assessment at UNI, who urged a delay in implementation for the sake of fairness to current students. Committee members sought clarification as to some of the technical aspects of the new tests. Some members shared the concern about the impact of the January 2

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(Administrative Rules Review Committee continued from Page 3)

effective date on current students, but otherwise expressed support for the rulemaking. They noted that the effective date issue could be addressed in the next session of the General Assembly. Other members suggested that the 25th percentile threshold is too low.

Action. No action taken.

SECRETARY OF STATE, *Mechanics Liens*, 11/28/12 IAB, ARC 0464C, ADOPTED.

Background. 2012 Iowa Acts, Ch. 1105 (HF 675), as amended by 2012 Iowa Acts, Ch. 1138 (HF 2465), creates an online central state registry for mechanics liens, effective January 2, 2013. The intent was to make the process transparent to buyers, sellers, and all contractors. The mechanics' notice and lien registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. A general contractor for residential construction who fails to post a notice of commencement of work on the registry within 10 days following commencement of work is not entitled to a lien or other remedies. The procedure is similar to that currently in place for the Uniform Commercial Code.

Commentary. The notice requirements identify the possibility that a lien could, in the future, be filed for work or materials that had not been paid for by the contractor. Thus, the buyer of a property is forewarned of this potential problem. At issue is that a contractor who uses neither subcontractors nor suppliers must still file a notice. Stakeholders contended this places an unnecessary burden on these contractors and questioned whether it is supported by statutory authority. Committee members expressed a willingness to delay this portion of the rule; however, agency representatives warned that such a delay would impact the entire program of registration and notice. The agency representatives agreed to seek legislative action on this matter and in the meantime agreed not to require registration by a contractor using neither subcontractors nor suppliers. A motion to refer the rulemaking to the General Assembly for further review carried.

Action. General referral to the General Assembly.

Next Meeting. The next regular committee meeting will be held in Statehouse Committee Room 116, on Tuesday, January 8, 2013, at 10:00 a.m. with an additional tentative meeting on Wednesday, January 9, 2013, at 9:00 a.m.

Secretary ex officio: Stephanie Hoff, Administrative Code Editor, (515) 281-3355.

LSA Staff: Joe Royce, LSA Counsel, (515) 281-3084; Jack Ewing, LSA Counsel, (515) 281-6048.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=53>

PROPERTY ASSESSMENT APPEAL BOARD REVIEW COMMITTEE

December 11, 2012

Co-Chairperson: Senator Joe Bolkcom

Co-Chairperson: Representative Tom Sands

Background. In 2005, Iowa Acts, Ch. 150, §121 (HF 868), established a Statewide Property Assessment Appeal Board (PAAB) and, effective January 1, 2012, a Property Assessment Appeal Board Review Committee (committee). The committee is required to review the activities of PAAB since its inception and issue a report to the General Assembly by January 15, 2013, that includes any recommendations for changes in laws relating to PAAB, the reasons for the committee's recommendations, and any other information the committee deems advisable. Staff support for the committee is provided by the Iowa Department of Revenue (IDR). The committee met previously on July 18, 2012.

Iowa Department of Revenue Analysis and Report. Dr. Amy Rehder Harris, Manager, Tax Research and Program Analysis Section, IDR, presented IDR's report titled "Analysis for the Legislative PAAB Review Committee." The report was requested by the committee to answer questions raised by committee members during the committee's meeting on July 18, 2012. Data in the report was for the 6,624 appeals during the first six years of PAAB's existence and included a statistical analysis of the property classifications involved and the five types of appeal outcomes (affirmed, modified, dismissed, stipulated, or withdrawn). The report also included data related to the assessed value of the property subject to appeal, geographic distribution of the appeals within the state, and the estimated property tax change as a result of PAAB rulings. The report also provided information on the expenses incurred by PAAB during its six years of existence (\$4.5 million). IDR prepared three surveys for various stakeholders in Iowa's property assessment appeal process including the county and city assessors, board of review members, and other stakeholders including the Iowa Bar Association, the Iowa Realtors Association, the Iowa Association of Business and Industry, and the Iowa County Attorneys Association. The report summarized the responses to those surveys. IDR noted that one

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(Property Assessment Appeal Board Review Committee continued from Page 4)

common survey response was the lengthy period of time PAAB takes to resolve appeals. IDR also analyzed data on the caseload reduction for district courts since 2007. IDR's analysis suggests that the introduction of PAAB as an alternative to the district court has reduced the number of district court cases during an average equalization year by 131, and 101 on average for even years.

PAAB Report to the Committee. Ms. Jessica Braunschweig-Norris, PAAB General Counsel, addressed the committee and presented PAAB's report. The report detailed the local board of review protest process as well as the PAAB appeal process, addressed concerns relating to the workload and scheduling obstacles faced by PAAB, summarized the various appeal outcomes occurring in PAAB appeals, and provided data on the level of taxpayer utilization of PAAB and amounts of taxpayer savings. Ms. Braunschweig-Norris also discussed the benefits of providing an additional forum for taxpayers to raise their claims without entering the judicial system, thereby reducing the number of cases required to be heard at the district court level. The report described PAAB as a necessary complement to the local board of review process because local boards of review often operate during a limited period of time and consist of lay people who may be unfamiliar with property assessment procedure and law or who may have conflicts of interest with persons coming before the local board of review.

Iowa State Association of Assessors Report. Mr. David Kubik, Dubuque County Assessor, presented the Iowa State Association of Assessors report to the committee. The report focused on five issues of concern: the lack of a presumption of correctness for the local board of review; the amount of evidence required to be presented to local boards of review; the current lack of filing fees for PAAB appeals; the current statutory expertise requirements for PAAB members; and the lack of electronic filing capability at PAAB.

Public Comment and Committee Discussion. The committee heard testimony from a taxpayer who had utilized the PAAB appeal process and from an attorney who represents clients before PAAB and in district court. The committee discussed the data and reports presented during the meeting. Committee members discussed the effectiveness of PAAB in relation to PAAB's cost to the state as well as whether the results in PAAB appeals would have occurred without its existence through appeals to district court. Committee members acknowledged that a financial cost/benefit analysis is not the only factor to use in determining whether PAAB is meeting its objectives. The committee members expressed interest in learning about how the local board of review protest process could be improved, including the possibility of restructuring the length of time for such protests. The committee members briefly discussed the possibility of recommending imposition of a filing fee for persons filing an appeal to PAAB, but stressed the importance of not creating a barrier for owners of lower-valued property. Committee members also addressed the concerns of stakeholders about the current lack of electronic filing capability in PAAB appeals and the current qualification requirements for local board of review members and PAAB members. The committee also discussed the possibility of limiting the types of appeals within PAAB's jurisdiction.

The committee did not make formal recommendations, and members identified the need for a further evaluation of the reports submitted during the meeting before any recommendations for legislative action are made.

IDR Contact: Victoria Daniels, Public Information Officer, (515) 281-8450.

LSA Contact: Michael Duster, Legal Services, (515) 281-4800.

Internet Page: <https://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=851>

LEGISLATIVE TAX EXPENDITURE COMMITTEE

December 12, 2012

Co-Chairperson: Senator Joe Bolkcom

Co-Chairperson: Representative Tom Sands

Overview. In 2010, Iowa Acts, Ch. 1138 (SF 2380), established the Legislative Tax Expenditure Committee under Iowa Code §§2.45(5) and 2.48. The committee is required to conduct regular review of all tax credit, withholding credit, and revenue division programs. The committee may review any tax expenditure at any time but is required to review specific tax expenditures during specified years. In 2012, the committee is required to review the Iowa Fund of Funds Program, the targeted jobs withholding credits, funding of urban renewal projects with increased local sales and services tax revenue, the school tuition organization tax credits, and the tuition and textbook tax credits.

Iowa Fund of Funds Program. Dr. Amy Rehder Harris, Manager, Tax Research and Program Analysis Section, Iowa Department of Revenue (IDR), provided a history of the Iowa Fund of Funds Program and an update of the program's current status. The program was established in 2002 to leverage funds for venture capital investment with state back-

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ing through tax credits. One hundred million dollars in contingent tax credits was originally authorized. Each portfolio fund in which the Iowa Fund of Funds (Fund) invests was required to make a commitment to consider equity investments in businesses located within Iowa and maintain a physical presence within Iowa. To date, \$26 million has been invested for the Fund in venture capital funds. The investments were funded by a revolving loan with contingent tax credits as collateral. In 2010, the tax credit cap was reduced from \$100 million to \$60 million. In February 2011, \$57 million in contingent credits were issued to secure a \$40 million line of credit with a February 22, 2012, maturity date. However, in fall 2011, the Fund's board learned that lenders might not renew the line of credit. Following a maturity date extension and the Fund defaulting on the line of credit, the lenders and the Fund entered into negotiations. IDR and the Iowa Attorney General's Office assisted in the agreement negotiations. The resulting agreement cures the loan default, avoids an immediate call on the full \$57 million in contingent credits at \$20 million per year, includes a 7- to 9-year restructuring of financing for the existing investment portfolio, preserves the \$26 million investment portfolio, and caps future Fund expenses. In addition, the agreement provides for no new partners in the Fund, no new portfolio investments, no expansion of investments as of December 2011, and provides for distributions to lenders to satisfy loans. The agreement provides that a total of \$25.6 million in tax credits will be redeemed, but limited to \$4 million each year. Mr. Jeff Thompson, Iowa Deputy Attorney General, also provided the committee with information on and analysis of the agreement and of the Fund's status going forward. The Fund will expire in December 2027, instead of 2052. Members of the committee commended IDR and the Iowa Attorney General's Office for their work in helping negotiate the agreement to mitigate problems within the Iowa Fund of Funds Program.

School Tuition Organization Tax Credits. Ms. Angela Gullickson, IDR, summarized Iowa's School Tuition Organization (STO) Tax Credit. The nonrefundable tax credit is awarded to taxpayers who make voluntary cash contributions to a qualifying STO that provides scholarships to low-income students. There is a total school tuition organization tax credit cap of \$8.75 million for tax year 2012 and subsequent tax years. Ms. Gullickson provided information on similar tax credit programs in other states. The average tax credit award in Iowa for the last six years was \$2,427 and the median award was \$650. Between 2009 and 2011, the average number of awards each year was 3,008. Nearly \$43.8 million in donations has been received, generating over \$41.4 million in scholarships for an average of 9,209 students each school year. The average scholarship has been \$899. Ms. Gullickson also stated that 5.4 percent of donations have been used for administrative expenses. Effective July 1, 2009, tax credit awards could be made to corporations. In the two full tax years that corporations could make donations, they averaged less than 2 percent of all awards. According to Ms. Gullickson, higher income households have more state tax liability and a higher federal income tax rate; as a consequence, they benefit more from the federal charitable contribution itemized deduction. Ms. Gullickson also analyzed the distribution of tax credit awards by taxpayer type, income level, number of dependents, and geographic distribution.

Tuition and Textbook Tax Credits. Mr. Bob Rogers, IDR, summarized Iowa's Tuition and Textbook Tax Credits. The amount of the credit is 25 percent of the first \$1,000 of eligible education expenses per dependent. The dependent must be in grades kindergarten through 12th grade at an accredited Iowa school. The credit is nonrefundable. Mr. Rogers provided information on similar tax credit programs in other states. Mr. Rogers also analyzed the distribution of tax credit claims by income level, number of dependents, and geographic distribution. Mr. Rogers also provided data on the overall utilization of the credit by eligible taxpayers and analyzed the several proposals for modifications to the credit, including imposing income limitations, increasing the percentage of the credit, and modifying the credit in conjunction with modifications to other tax credits provided by the state.

Report on the Maximum Aggregate Tax Credit Limit for Certain Economic Development Programs. Mr. Tim Whipple, Economic Development Authority (EDA), provided a summary of the maximum aggregate tax credit cap enacted in 2009, including subsequent amendments to the amount of the maximum aggregate cap and the programs subject to the maximum aggregate cap. The current maximum aggregate cap is \$120 million and includes the High Quality Jobs Program, Enterprise Zone Program, Housing Enterprise Zone Program, corporate research credit under the Enterprise Zone Program, assistive device credit, Brownfield Program, innovation fund credit, and community-based seed capital fund credit. Mr. Whipple also provided information on the maximum aggregate cap allocations for fiscal years 2010 through 2013.

Targeted Jobs Withholding Tax Credits. Mr. Zhong Jin, IDR, summarized the Targeted Jobs Withholding Tax Credit (TJC), which was enacted as a pilot program to help Iowa border cities compete with cities in neighboring states in attracting business investment and creating new jobs. The current pilot project cities are Sioux City, Fort Madison, Council Bluffs, Burlington, and Keokuk. TJC diverts 3 percent of the gross wages paid by an employer to each employee in awarded businesses located in urban renewal areas to pilot project cities for 10 years. In 2009, the sunset

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date of TJC was extended to June 30, 2013. Awarded businesses must relocate to Iowa, create at least 10 new jobs, retain at least 10 jobs, or invest at least \$500,000. Wages of eligible employees must equal or exceed the average county wages. Data was also provided on the number of awards under the program, the size of such awards, the distribution of awards by pilot project city, the number of credit claims by industry, and the number of jobs and the amount of investment by businesses under the program.

Funding Urban Renewal Projects With Increased Local Sales and Services Tax Revenues. Mr. Joel Phipps, IDR, analyzed the funding of urban renewal projects by cities with increased local sales and services tax revenues, commonly referred to as Local Option Sales Tax (LOST)-Tax Increment Financing (TIF). Additional LOST revenue that is collected above the established base year for such revenue is returned to the city for urban renewal. Mr. Phipps identified other states with similar LOST-TIF programs, identified those cities in Iowa that have begun using LOST-TIF, described the administration and calculation of LOST-TIF, and addressed the impacts of LOST-TIF on other jurisdictions of a county where it is being utilized.

Urban Renewal and Tax Increment Financing Reporting. Mr. Jeff Robinson, Fiscal Division, Legislative Services Agency, and Ms. Carrie Johnson and Mr. Ted Nellesen, Iowa Department of Management, provided the committee with an update of the website development for the urban renewal reporting requirements enacted in 2012 Acts, Ch. 1124 (HF 2460). The committee was provided a brief demonstration of the website's functionality and a summary of the data being collected from the jurisdictions required to report under the new law. The public website can be viewed at <https://solr.legis.iowa.gov/tif/public>.

Public Comment and Committee Discussion. During public comment periods during the morning and afternoon sessions of the meeting, several members of the public addressed the committee on a variety of tax credit issues. The committee discussed the presentations made during the meeting and discussed the need for further evaluation of each credit, particularly in light of the amount of credits currently being claimed under each of these programs.

LSA Contacts: Michael Duster, Legal Services, (515) 281-4800; Michael Mertens, Legal Services, (515) 281-3444.

Internet Page: <http://www.legis.iowa.gov/Schedules/committee.aspx?GA=84&CID=511>